



State of North Carolina
Utilities Commission

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August 19, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: DA 96-1190
CC Docket No. 96-159
BellSouth Telecommunications, Inc.
Petition, NSD-L-96-7, for Waiver of
LATA Boundaries

Dear Mr. Secretary:

Enclosed are an original and two copies of the joint comments of the North Carolina Utilities Commission and the Public Staff-North Carolina Utilities Commission in response to the Public Notice released by the Federal Communications Commission on July 26, 1996, in the above-captioned docket.

Sincerely,

Judge Hugh A. Wells, Chairman
North Carolina Utilities Commission

Robert P. Gruber, Executive Director
Public Staff-North Carolina Utilities Commission

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cc: FCC Common Carrier Bureau
Network Services Division
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Washington, D.C. 20554

International Transcription Service
2100 M Street, N.W., Suite 140
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of
BellSouth Telecommunications, Inc.)
Petition, NSD-L-96-7, for Waiver)
of LATA Boundaries)

DA 96-1190
CC Docket No. 96-159

JOINT COMMENTS
OF THE
NORTH CAROLINA UTILITIES COMMISSION
AND THE
PUBLIC STAFF-NORTH CAROLINA UTILITIES COMMISSION

The North Carolina Utilities Commission and the Public Staff-North Carolina Utilities Commission (NCUC and PS) submit their joint comments in response to the Federal Communications Commission's (FCC) Public Notice (PN) released on July 26, 1996, in the above-captioned docket. In particular, the comments address BellSouth Telecommunications, Inc. (BellSouth) petition for a waiver of LATA boundaries in order to provide two-way, non-optional extended area service (EAS) between certain exchanges in North Carolina.

BellSouth's petition seeks a waiver of LATA boundaries in four specific interLATA EAS proposals, three of which involve multiple routes. There is ample precedent for this request. Indeed, since the break up of the Bell System in 1982, BellSouth has provided interLATA EAS in fourteen separate cases involving

thirteen different BellSouth exchanges, four of which - Raleigh, Chapel Hill, Scotts Hills and Wilmington - are included in this petition. In each of these fourteen cases the interLATA EAS proposal was first approved by the NCUC and BellSouth then obtained a waiver from the United States District Court for the District of Columbia to provide the service.

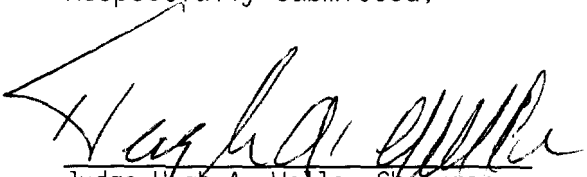
The four interLATA EAS proposals under consideration in BellSouth's petition have characteristics nearly identical to those of the fourteen interLATA EAS proposals previously implemented and from which subscribers are now benefiting. All four subject proposals were pursued in compliance with enclosed NCUC Rule R9-7 for processing EAS requests. Initially, the affected subscribers undertook the arduous and time consuming task of developing evidence of broad-based support to convince the NCUC of the interest in and need for the EAS. Once convinced that significant public support existed for the EAS, the NCUC required polling of many of the affected subscribers based on computed increases in basic local rates associated with providing the requested EAS. In all polls, a substantial majority of those voting favored the EAS. In accordance with its Rule R9-7, the NCUC approved implementation of the interLATA EAS subject to BellSouth receiving a waiver from the District Court to provide the interLATA service. None of the affected interLATA long distance carriers expressed opposition to any of the four proposals during the processing phase.

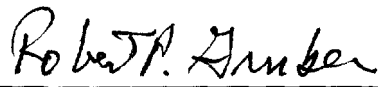
Processing an EAS request takes approximately two years, one year for developing support and getting approval and another year for implementing the service. By the time these comments are filed, the scheduled implementation dates for all four proposals will have passed, the earliest date being March 23, 1996, and the latest date being August 17, 1996. The affected subscribers are understandably upset and frustrated over not receiving the EAS as scheduled, particularly those subscribers who participated in the prior fourteen interLATA

EAS requests and were provided the EAS as scheduled. The Telecommunications Act of 1996 has been a disappointment to the affected subscribers, since it is currently denying them the service they need and have sought through the investment of much time and effort. They see no difference between the fourteen interLATA EAS proposals already implemented and those now pending, and they find it hard to believe that there is any rational justification for the unequal treatment they have received.

In summary, the NCUC and the PS-NCUC share in the concerns of the affected subscribers and strongly urge the FCC to rectify this situation as quickly as possible by granting BellSouth's petition for a waiver of LATA boundaries in order to provide the pending interLATA EAS proposals as approved by the NCUC. We believe the Telecommunications Act of 1996 at Section 3(a)(2)(43) gives the FCC the authority to grant BellSouth's petition.

Respectfully submitted,


Judge Hugh A. Wells, Chairman
North Carolina Utilities Commission
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Robert P. Gruber, Executive Director
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AUG 21 1996

RULE R9-7

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PROCEDURES REGARDING REQUESTS FOR EXTENDED AREA SERVICE*(a) Purpose

This rule is intended to further the public interest through the establishment of a set of consistent general guidelines, standards, practices, and procedures for the filing, acceptance, and processing of requests for extended area service (EAS) in North Carolina.

(b) Definitions

For purposes of this rule, the following definitions shall apply:

(1) Extended Area Service - EAS is a switching and trunking arrangement which provides for non-optional, unlimited, two-way, flat rate calling service between two or more telephone exchanges, provided at either the applicable local exchange rate or the applicable local exchange rate plus an EAS increment rather than at the toll message rate.

(2) Incremental EAS Cost Study - An incremental EAS cost study shall be deemed to include all additional incremental equipment costs applicable to the EAS arrangement plus those embedded costs supporting investments which have previously been used to provide toll services, but which will, upon approval of EAS, be utilized for EAS rather than toll service. Lost toll revenues will generally not be considered a proper cost to be included in an incremental EAS cost study.

(3) Community of Interest Factor (CIF) - Number of customer calls (messages) divided by the total number of local customer lines/trunks. For the purpose of Rule R9-7, customer calls shall consist of: 1-plus and operator-assisted MTS toll calls and optional toll calling plan calls generated over Key, PBX trunks, Centrex trunks, ESSX trunks, ISDN, simple business and residence customer lines/trunks.

(4) Percentage Making Calls (PMC) - Number of access lines making calls divided by the total number of local customer lines/trunks.

* Incorporates changes from the Commission's Orders of May 5, 1992; March 25, 1993; and June 14, 1993 - Docket No. P-100, Sub 89

(c) Community of Interest, Public Hearings, and Geographical Boundaries

(1) Any entity or group requesting the Commission to open a formal docket to investigate the need for EAS in a particular area shall be required to demonstrate to the initial satisfaction of the Public Staff and subsequently to the Commission that the subscribers in each affected exchange have demonstrated broad-based support for the requested EAS. Such support may be demonstrated by resolutions and letters from civic groups, institutions, local governments, elected officials and petitions signed by the affected subscribers. The Commission retains the flexibility to determine whether the demonstrated support is sufficient to justify further pursuit of the request for EAS.

(2) The Commission may hold a public hearing, if necessary, to consider issues such as whether the public interest is sufficient to proceed, whether a poll should be conducted, and to determine the applicable rate increases for EAS at each exchange. The Commission may decide to conduct an EAS poll of affected subscribers without first holding a public hearing where the particular facts and circumstances of a case do not necessitate a hearing prior to polling.

(3) While consideration may be given to the geographical nature of an EAS proposal, it is not appropriate to limit EAS arrangements based solely on geographical location. So long as a significant community of interest and support for the EAS can be demonstrated, the Commission will consider each request for EAS on a case-by-case basis. A chief consideration in any request for EAS is the public interest and need for EAS, which is not necessarily constrained by geographical boundaries.

(d) Toll Calling Studies

(1) All proposals for EAS shall be accompanied by toll calling studies concerning the affected exchanges.

(a) Toll calling studies shall be for thirty-day periods, unless circumstances are shown to warrant a longer study period and shall be broken down into residential and business categories. Toll calling studies shall include information concerning community of interest factors (CIFs) and percentage of access lines making one or more calls (percentage making calls or PMCs) in the relevant time period.

(b) Upon request from the local exchange company, an interexchange carrier shall provide appropriate toll calling information for affected interLATA routes.

(c) When a telephone membership corporation (TMC) is involved in an EAS proposal, the TMC shall be requested to provide toll calling studies.

(2) Absent special circumstances, an EAS proposal shall generally not be approved for polling unless all the affected exchanges in the proposal meet the relevant CIF and PMC standards on at least a one-way basis as set out below:

(a) For intra-county, county-seat EAS proposals, a CIF of 1.0 or greater in the residential category or a CIF of 2.0 or greater in the residential and business categories combined.

(b) For other intra-county EAS proposals, a CIF of 2.0 or greater in the residential category or a CIF of 2.5 or greater in the residential and business categories combined and a PMC of 25% or greater.

(c) For inter-county EAS proposals between exchanges with a common boundary, a CIF of 2.5 or greater in the residential and business categories combined and a PMC of 45% or greater.

(d) For inter-county EAS proposals between exchanges without a common boundary, a CIF of 3.0 or greater in the residential and business categories combined and a PMC of 50% or greater.

(3) Notwithstanding Rule R9-7(d)(2), the Commission may approve, disapprove, narrow, or limit an EAS proposal for polling if special circumstances require such action.

(e) Cost Studies

(1) It is appropriate to utilize cost studies in order to establish the applicable local rate increases which should apply to requests for EAS if ultimately approved by the Commission. Except under unusual and extenuating circumstances, cost studies generally will not be required for those telephone companies who have had EAS matrix plans approved by the Commission. Past Commission practice in developing applicable rate increases has generally allowed consideration of only the incremental equipment costs necessary to provide the EAS in question. As a general rule, the Commission has not authorized telephone companies to consider lost toll revenues in developing applicable EAS charges. The Commission will continue to follow this general policy in future EAS cases unless it can be clearly demonstrated in a particular case that a failure to consider lost toll revenues will in fact result in serious financial distress to the LEC and, in turn, to its remaining local customers. However, in all cases, the toll revenue losses may be computed and included in the analysis as information to the Commission.

(2) In EAS cases involving non-matrix telephone companies, the affected company or companies will be required to conduct cost studies based upon incremental costs exclusive of toll losses. Such incremental cost studies shall be

deemed to include all additional incremental equipment costs applicable to the EAS arrangement plus those embedded costs supporting investments which have previously been used to provide toll services, but which will, upon approval of EAS, be utilized for EAS rather than toll service. The Commission recognizes that these latter specified facilities will have generally been included in a previously established test year period and that rates were likely set to produce revenues necessary to cover expenses and capital costs associated with these facilities. Therefore, to the extent that there would be a double recovery of expenses associated with these facilities, a deferred account shall be established to eliminate such recovery and the monies placed in the deferred account shall be returned to the general body of ratepayers, with interest, upon further Order of the Commission.

(f) Matrix Rating Plans

For telephone companies which have an approved EAS matrix plan in effect, the applicable customer charge(s) which shall be used for polling purposes will be determined by application of said matrix plan.

(g) Regrouping Charges

A cost study based on incremental costs as defined above will be the basis for any rate increase(s) associated with implementation of EAS for non-matrix companies. At the time of the next general rate case following the implementation of EAS, the affected exchange(s) will be placed in the proper rate group(s) and a determination of whether the EAS differential(s) should be eliminated will be made at that time. If applicable, the customer notice used for EAS polling purposes shall state that a regrouping charge of the given amount will apply at the time of the company's next general rate case.

(h) Polling Procedures

(1) When the Commission determines that the public interest and need for EAS involving two exchanges is dominant in one direction, which is generally the case when the EAS request involves a large exchange and a small exchange, the Commission will determine on a case-by-case basis whether to poll both exchanges. In cases where only one exchange is polled, the Commission will make a determination based on the results of the poll of that one exchange. As a general rule, the EAS will be approved if a simple majority of the ballots returned by subscribers vote in favor of the proposal. In cases where only minimal or de minimis rate increases would result to subscribers in the larger exchange, the Commission will impose those charges on customers in the larger exchange without a poll if the polling results of customers in the other exchange are favorable.

(2) In cases where dominant interest does not exist at one exchange, both exchanges will generally be polled using rate increases based upon incremental costs as described in subparagraph (e) of this rule, except where the increase in one of the exchanges is minimal or de minimis, in which case no poll will be conducted in that exchange, but the EAS rate increase shall apply at that time the EAS, if approved, is implemented.

(3) In proposals where EAS is being considered among several exchanges, the Commission will determine, in its discretion, whether or not all or only some of the affected exchanges will be polled and what rate increases shall apply at the time the EAS, if approved, is implemented.

(4) The customer notice which is used in conjunction with an EAS poll shall specify that if the subscriber wishes to have a voice in the decision, he must return his marked ballot.

(i) Polling Results

EAS polling results shall be broken down by residential and business categories. All decisions regarding EAS poll results will be based on the valid ballots returned. A subscriber shall be entitled to as many votes as that subscriber has access lines. Generally, a simple majority of those valid ballots returned voting in favor of the EAS will constitute a positive vote for EAS as to that exchange. An EAS proposal will be approved if each of the polled exchanges is in favor of the EAS proposal. When two or more exchanges are polled and mixed results occur, the approval or disapproval of the request will be based on the individual poll results as well as other factors that may be reflective of any unique circumstances affecting the request, including valid public policy considerations such as economic development and county-seat calling. In making a final decision, the Commission will exercise its discretion in considering all relevant factors.